

**NOMINATIONS OF DEBORAH TAYLOR TATE AND
MICHAEL J. COPPS TO BE COMMISSIONERS
OF THE FEDERAL COMMUNICATIONS
COMMISSION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

DECEMBER 13, 2005

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

26-425 PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

TED STEVENS, Alaska, *Chairman*

JOHN McCAIN, Arizona	DANIEL K. INOUE, Hawaii, <i>Co-Chairman</i>
CONRAD BURNS, Montana	JOHN D. ROCKEFELLER IV, West Virginia
TRENT LOTT, Mississippi	JOHN F. KERRY, Massachusetts
KAY BAILEY HUTCHISON, Texas	BYRON L. DORGAN, North Dakota
OLYMPIA J. SNOWE, Maine	BARBARA BOXER, California
GORDON H. SMITH, Oregon	BILL NELSON, Florida
JOHN ENSIGN, Nevada	MARIA CANTWELL, Washington
GEORGE ALLEN, Virginia	FRANK R. LAUTENBERG, New Jersey
JOHN E. SUNUNU, New Hampshire	E. BENJAMIN NELSON, Nebraska
JIM DEMINT, South Carolina	MARK PRYOR, Arkansas
DAVID VITTER, Louisiana	

LISA J. SUTHERLAND, *Republican Staff Director*

CHRISTINE DRAGER KURTH, *Republican Deputy Staff Director*

DAVID RUSSELL, *Republican Chief Counsel*

MARGARET L. CUMMISKY, *Democratic Staff Director and Chief Counsel*

SAMUEL E. WHITEHORN, *Democratic Deputy Staff Director and General Counsel*

LILA HARPER HELMS, *Democratic Policy Director*

CONTENTS

Hearing held on December 13, 2005	Page 1
Statement of Senator Inouye	3
Statement of Senator Pryor	25
Statement of Senator Stevens	1
Statement of Senator Sununu	4

WITNESSES

Alexander, Hon. Lamar, U.S. Senator from Tennessee	2
Prepared statement	3
Copps, Hon. Michael J., Renominated to be Commissioner of the Federal Communications Commission	9
Prepared statement	10
Biographical information	11
Tate, Deborah Taylor, Nominated to be Commissioner of the Federal Commu- nications Commission	4
Prepared statement	6
Biographical information	6

APPENDIX

Frist, Hon. William H., U.S. Senator from Tennessee, prepared statement	31
Response to Written Questions Submitted by Hon. Olympia J. Snowe to Deborah Taylor Tate	31

**NOMINATIONS OF DEBORAH TAYLOR TATE
AND MICHAEL J. COPPS TO BE
COMMISSIONERS OF THE FEDERAL
COMMUNICATIONS COMMISSION**

TUESDAY, DECEMBER 13, 2005

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:31 a.m. in room SD-106, Dirksen Senate Office Building, Hon. Ted Stevens, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA**

The CHAIRMAN. The Committee will come to order, please. This morning the Committee will hear from two of the President's nominees for the Federal Communications Commission. Deborah Tate is the Director of the Tennessee Regulatory Authority and has been a senior staffer to two former Tennessee Governors, including Senator Alexander who is here. Senator Frist has also submitted a statement for the record in support of her nomination. Michael Copps has been renominated to a second term on the Commission. Those of us at the top of the dais here know Michael from his days as Senator Hollings' Administrative Assistant.

We all know how fast the telecommunications landscape is changing. Many of today's technologies were never anticipated when we passed the 1996 Act. There are many issues that are still squarely in front of us: universal service, preserving universal service and bringing broadband to rural America, promoting competition and a healthy telecommunications industry, minimizing the regulatory burden on the telecommunications providers also.

I've enjoyed meeting each of the nominees and we look forward to working with them on these and other issues when they are confirmed.

Ms. Tate, I understand you have family with you today. Would you please introduce them for the Committee and for the record?

Ms. TATE. Yes, sir. Thank you, Mr. Chairman, very much.

The CHAIRMAN. You have to press a button there somewhere.

Ms. TATE. Yes, sir. Thank you, Mr. Chairman, so very much. My family is with me: my husband Bill Tate, an attorney in Nashville, and my sons Will and Taylor Tate, and my daughter Carlton. Two of them are here in the midst of their college exams, so I appreciate very much your allowing them to be with me today.

The CHAIRMAN. I heard from my youngest. She is in exams, too. Mr. Copps, would you introduce your family and supporters, please.

Mr. COPPS. Thank you, sir. Some of my family is here: first of all, my lovely wife Beth behind me. She is just recuperating from open heart surgery, but she is here and, as you can see, she is looking not only well but looking beautiful. Our two daughters are here: Betsy Von Hagen, who is the mother of our two little red-headed boys, one of whom is here today, our grandson Sam; our daughter Clair, a senior in high school, is here; also my namesake and middle son Michael is here, and this week he is enjoying the announcement of his promotion to Senior Director of Membership at the Community Associations Institute. Absent are my son Robert, who is an attorney in New York City—he is up there billing hours so he can afford to live in New York City, and that is why he is not here today—and our youngest son, Will, who is in the midst of final exams at Mary Washington University. Thank you for allowing me the opportunity to introduce them.

The CHAIRMAN. As a father of six, thank you for bringing them. Senator INOUE.

Senator INOUE. No, I yield to Senator Alexander.

The CHAIRMAN. Senator Alexander, Senator Inouye yields to you.

**STATEMENT OF HON. LAMAR ALEXANDER,
U.S. SENATOR FROM TENNESSEE**

Senator ALEXANDER. Thank you, Mr. Chairman. Thank you, Senator Inouye. I have now been yielded to by the—that is the maximum amount of seniority I could possibly be yielded to in the U.S. Senate. I thank you for that.

Mr. Chairman, I will be brief but I hope sincere in my remarks about Debi Tate. I would like to take credit for her appointment, but I cannot. I did not find President Bush somewhere and say: Be sure and appoint Debi Tate. She earned his respect the same way she earned mine and that of many, many others.

She began work with me in my first term as Governor of Tennessee more than 20 years ago as a lawyer on our staff. She earned the respect of Governor Sundquist, who is here, one of my successors as Governor of Tennessee. She is Director of the Tennessee Regulatory Authority, of which she has been Chairman. She earned the respect of her colleagues there.

She earned the respect of her colleagues around the country and at various times she has been a member of the Federal-State Joint Board on Advanced Telecommunications Services, the National Association of Regulatory Utility Commissioners, and many other similar organizations.

She is here, as you have already noted, with her family. I would like also to acknowledge the presence of Bart Gordon, Congressman from Tennessee, who is dean of our Tennessee delegation, and I am delighted that he has taken the time to come.

Let me simply say that I found Debi to be smart and thoughtful. So far as I know she would bring to the Commission, if we should choose to confirm her, no particular agenda. She knows to listen carefully and that these issues are complex. I would expect her, if she is confirmed, to be an excellent member of the Commission. I

am glad the President nominated her and I appreciate your giving me an opportunity to come here and introduce her.

Thank you.

[The prepared statement of Senator Alexander follows:]

PREPARED STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE

Mr. Chairman, Members of the Commerce Committee, thank you for the opportunity to be here today to speak in support of the nomination of Deborah Taylor Tate to serve as a Commissioner on the Federal Communications Commission. I have known Debi since I served as Governor of Tennessee, and I believe that President Bush has made a superb choice to help us navigate the complicated communications questions that we will face in the next few years.

Debi has devoted a lifetime of service to the State of Tennessee, but our state's loss with this nomination is the nation's gain. She is a graduate of Middle Tennessee State University and Vanderbilt Law School. She served as a policy advisor on numerous issues to me when I was Governor and as a mental health and juvenile justice policy advisor to Governor Don Sundquist. She currently serves as a Director of the Tennessee Regulatory Authority after serving as Chairman in 2003–2004.

Debi's work at TRA has provided her with a valuable understanding of regulatory issues that has led to her serving on numerous national advisory bodies. She has been a member at various times of the Federal-State Joint Board on Advance Telecommunications Services, the National Association of Regulatory Utility Commissioners, the Washington Action Committee, and the American Public Gas Association Security and Integrity Foundation Board of Directors Advisory Board.

In addition, Debi finds time to volunteer for numerous organizations with a particular emphasis on children and women's issues. She and her husband William have also raised three children—Will, Taylor, and Cacky—who are all following in their parents' successful footsteps.

I take the time to emphasize Debi's broad background and experience because I believe it will be an asset in taking on the job of FCC Commissioner. The last decade has seen an explosion in the complexity of telecommunications regulation. The Internet has changed the way we all live our lives, and it has blurred the lines that have traditionally separated telephones, television, and other technologies. More than ever, regulatory decisions regarding these technologies can now have an effect on education, health care, homeland security, and defense. Even more significantly, regulatory decisions can have an effect on tax policy, which can have serious consequences for the ability of the federal, state, and local governments to set and adhere to their budgets.

Debi's breadth of experience across a wide range of issues and her insight at both the national, state and local level will make her an invaluable asset to the FCC as it navigates these increasingly complex issues. If confirmed, the next few years of communications regulation will be in good hands.

Mr. Chairman, it is a pleasure to be able to be here today to speak in support of a good public servant and a good friend. I thank the Committee for the opportunity, and I urge the Committee to support the nomination of Deborah Taylor Tate to the FCC.

The CHAIRMAN. Thank you very much.

Congressman Gordon, did you wish to make a statement at all?

Mr. GORDON. Amen.

The CHAIRMAN. Thank you.

Senator INOUE.

**STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

Senator INOUE. Mr. Chairman, I am pleased to introduce Commissioner Michael Copps as a nominee to serve a second term on the FCC. I would like to welcome him back to the Committee. As you indicated, he spent a significant part of his career working in the Senate, and he continues to work closely with the Members of this Committee.

It was my pleasure to join you, Mr. Chairman, in recommending that the President nominate Commissioner Copps for a second term. During his first term he demonstrated that he is highly qualified and a very able Commissioner, and he has taken seriously his duties to further the public interest for the benefit of the American people. Commissioner Copps has been a strong and outspoken voice on issues critical to our country's future. He has recognized that having the most advanced communications networks and capabilities is critical to America's future economic competitiveness. He has worked to ensure that all Americans have comparable access to communications services, including those who live in rural America and, most importantly, on tribal lands and in the inner cities, those with disabilities and those who are economically disadvantaged and others who are at risk of being left behind.

Commissioner Copps has pushed the FCC to concentrate on the challenge of broadband deployment so that America remains the technological leader in the global marketplace. He has also focused attention on the need to ensure safety of our citizens through robust, reliable, and redundant communications. Commissioner Copps has worked tirelessly to bring attention to the large issues concerning the role of media in our country.

When the FCC addressed media consolidation, Commissioner Copps reached out to his fellow citizens by holding public meetings across this country. For more than 25 years, Commissioner Copps has dedicated himself to public service. He has worked to build a closer relationship between the public and private sectors to tackle the challenges we face.

I join all of my colleagues in thanking him for his commitment in serving the American people and I am pleased to support him for another term as an FCC commissioner. I must also say and I join all in welcoming Director Deborah Tate before the Committee today, and I thank Senator Alexander for being here to introduce her.

Thank you very much, sir.

The CHAIRMAN. Thank you very much.

Senator Sununu, do you have an opening statement?

**STATEMENT OF HON. JOHN E. SUNUNU,
U.S. SENATOR FROM NEW HAMPSHIRE**

Senator SUNUNU. We can for the sake of expediency assume that I gave a 10-minute very eloquent opening statement and proceed right to the testimony of the witnesses. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Ms. Tate, do you have a statement to make?

Ms. TATE. Yes, sir, Mr. Chairman.

The CHAIRMAN. Would you pull that mike toward you, please.

**STATEMENT OF DEBORAH TAYLOR TATE, NOMINATED TO BE
COMMISSIONER OF THE FEDERAL COMMUNICATIONS
COMMISSION**

Ms. TATE. Yes, sir. Mr. Chairman, Co-Chairman Inouye, Members of the Committee: It is indeed a privilege to be here and have this opportunity to appear before you today. Please let me thank Senator Alexander for being here today, as well as Congressman

Gordon, and your former colleague, Governor Don Sundquist. I also appreciate so very much the kind remarks that the Majority Leader, Bill Frist, put into the record. And I am of course very proud to have my family here today. I would not be here without their blessing.

I am of course, as anyone who sits in this seat, so deeply honored to have been nominated by the President of the United States, President Bush, for this position at the FCC. Over the past few weeks I have had the opportunity to meet many of the Members of the Committee and talk with you about issues of concern and interest. Of course, if confirmed, I look forward to continuing those discussions.

Before we begin to hear about the concerns that you may have this morning, I do want to express that if I am confirmed, I will perform to the best of my abilities. I will bring a commitment to study the issues and to find sound, practical, reasonable solutions that I believe are best for our country.

As a sixth generation Tennessean, I have very deep roots that run in the rural part of our state. So I am especially interested in those issues that are affecting rural Americans and, if confirmed, I hope to continue to be a voice for families and consumers, as I have been in Tennessee, on the FCC.

In many ways I feel like most of my entire life has been spent in preparation for this position. Having spent most of the past 20 years in public service, as Senator Alexander said, as an aide for two governors, the head of a state health administrative agency, and then most recently as both the Chairman and Director of the Tennessee Regulatory Authority. I believe that I bring the talent, the training, and the energy necessary to succeed as a Commissioner at the FCC. With your support and approval, I can assure you that I will bring a spirit of consensus and bipartisanship to the Commission, as I have with my Tennessee colleagues; a willingness to build on what the Chairman and the other Commissioners have already begun.

The communications landscape in our country is indeed changing. There are unprecedented changes. We are seeing a new world, a new digital age. Some liken it to the industrial age, the printing press, or even putting a man on the Moon—major innovations which have changed and shaped our world and country forever. If confirmed by the Senate, I pledge my steadfast commitment to work closely with you, with Congress, to tackle the complex issues that are facing America in this new digital age.

As public servants, I believe we are all called to build an America full of promise and opportunity, to improve our economy, to help create more jobs and investment, to boost family incomes, and to try and make a positive difference in the lives of every single American.

Again, I am so very honored and so very grateful to you for this opportunity to appear here today. Of course, I am happy to answer questions, and thank you very much.

[The prepared statement and biographical information of Ms. Tate follow:]

PREPARED STATEMENT OF DEBORAH TAYLOR TATE, NOMINATED TO BE COMMISSIONER
OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. Chairman, Co-Chairman Inouye, Members of the Committee, it is a privilege to have the opportunity to appear before you today.

Please permit me a moment to thank my mentor and friend, Senator Alexander, for his wonderful introduction; Majority Leader Frist for his thoughtful remarks for the record; and my family, sitting behind me today—my husband, Bill; my son, Will; my son Taylor; and my daughter, Carlton—for their love and support.

I am deeply honored to have been nominated by President Bush to serve as a Commissioner at the Federal Communications Commission. Over the past few weeks, I have had the pleasure of talking to many members of the Committee and I want to thank all of you for taking the time to share your thoughts about communications policy and the FCC with me. If confirmed, I look forward to continuing our discussion.

I look forward to discussing telecommunications issues that concern you this morning. But before we do so, I wanted to express that, if confirmed, I will perform my duties to the best of my ability. I will bring a commitment to study the issues and find sound, reasonable solutions that are best for our country. As a 6th generation Tennessean, with deep roots in the rural part of our country, I am especially interested in issues that affect rural Americans, and if confirmed, I will work to be a voice for families and consumers on the Commission.

In many ways, I feel that my entire life has been spent in preparation for this job. Having spent most of my professional life in the public sector, as a gubernatorial aide for two different governors, head of a state administrative agency, and, most recently, as Chairman and Director of the Tennessee Regulatory Authority, I believe I bring the talent and energy necessary to succeed as a Commissioner at the FCC. And, with your support and approval, I will bring a spirit of consensus and bi-partisanship to the Commission; a willingness to build on what Chairman Martin and the other Commissioners have begun at the FCC.

The telecommunications landscape is undergoing unprecedented changes. Indeed, we are all witnessing a new world—a new digital age. Some liken it to the industrial revolution; the printing press; major innovations which shaped and changed our world forever. If confirmed, I pledge my steadfast commitment to work closely with Congress, Chairman Martin, and my fellow commissioners to tackle the complicated issues facing America in the new digital age.

As public servants, I believe we are here to build an America full of promise and opportunity; to improve our economy; to create more jobs; to boost family incomes; and to make a positive difference in the lives of every single American.

Again, I am so very grateful and humbled for the opportunity to appear before you today, and I would be happy to answer any questions you might have. Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Deborah Taylor Tate.
2. Position to which nominated: Commissioner, Federal Communications Commission.
3. Date of Nomination: 11/9/05.
4. Address (List current place of residence and office addresses):
Residence: information not released to the public.
Office: Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 37243.
5. Date and Place of Birth: 7/30/56—Columbia (Maury County), Tennessee.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Spouse: William Howard Tate, Partner: Howard, Tate, Sowell, Wilson and Boyte, 150 Second Avenue N., Nashville, TN 37201.
Children: William H. Tate, Jr. (22), Taylor McLean Tate (20), Carlton McLendon Tate (18).
7. List all college and graduate degrees. Provide year and school attended: University of Tennessee-Knoxville (B.A. 1977; J.D. 1980); also attended Vanderbilt University Law School.
8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated: Director, Tennessee Regulatory Authority.

ity (2003–present), Chairman (2003–2004); Director, State and Local Policy Center, Vanderbilt Institute for Public Policy Studies; Senior Staff to former Governor Lamar Alexander and Don Sundquist; Executive Director, Health Facilities Commission.

9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last five years: FCC Federal State Board on Advanced Services (2003–present); Census Information Center, Director, located at Vanderbilt Institute for Public Policy Studies (state advisory board to U.S. Census Bureau, CIC Program (2000–02)

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last five years: Centerstone, Inc. (mental health center)—Board of Directors, Chairman; Family and Children’s Services, Board and Executive Committee: Director, State and Local Policy Center (VIPPS); Tennessee Voices for Children—Board of Directors; Renewal House, Inc.—Board of Directors/Advisory Board;

11. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

Westminster Presbyterian Church—over 20 years.

Nashville Bar Association—over 10 years.

Nashville Bar Foundation—3 yrs.

Lawyers Association for Women—over 10 years.

Tennessee Pediatric Foundation—1 year.

Tennessee Tomorrow, Inc.—1 year.

Richland Country Club—over 20 years.

12. Have you ever been a candidate for public office? Yes, Tennessee General Assembly, House of Representatives (1986).

12a. If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. None.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

2002—Alexander for Senate \$1,000.

1999—Alexander for President \$1,000.

1997—Campaign for New American Century \$500.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements: TN Pediatric Society Foundation Board; Nashville Bar Foundation Fellow; National Philanthropy Day (Volunteer award); “Invisible Child Award,” NAMI and Mental Health Board awards for service; Athena (outstanding women) nominee, Junior League Sustainer of the Year.

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

a. FCC—Individual comments, NPRM: IP-enabled services (March 04).

b. OP—Ed: “VOIP Technology”—Tennessee newspapers (statewide).

c. “Ma Bell’s Newest Grandchild: VOIP” (April 04).

d. Tennessee Bar Journal: “VOIP—A Case for Practical Federalism” (September 05).

e. Panelist, “The Role of States and Cities in Regulating the Internet,” Advisory Committee to Congressional Caucus, Washington, D.C. (4/29/05).

f. Panelist: VOIP Forum for Senate/House Committee Staff, Washington, D.C. (3/04).

g. Moderator: “All Politics is Local: Broadband,” National Summit on Broadband, Washington, D.C. (10/04).

h. Tennessee Telecommunications Association, Nashville, TN (8/02).

i. Numerous civic club speeches, interviews during 2003–2004 as Chairman, TRA.

16. Please identify each instance in which you have testified orally or in writing before Congress in a nongovernmental capacity and specify the subject matter of each testimony: None.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

- a. State of Tennessee Consolidated Retirement.
- b. State of Tennessee 401 K Plan (9/30/05)—Fidelity Funds.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? Yes, Centerstone, Inc.

2a. If so, please explain: Nonprofit mental health organization Board of Directors.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: Spouse Investments: AT&T, Lucent Technology, Nortel Networks, Comcast, Motorola, Verizon Communications, Nokia.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None other than in my official capacity as a Director of the TRA.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

- a. Encouraging Tennessee delegation to support various increases to low income energy assistance/LIHEAP.
- b. Encouraging Tennessee delegation to support/continue various Welfare to Work/TANF proposals.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: In accordance with law and regulation, my spouse and I will comply with any potential conflict of interest requirements including those involving divestiture.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees? To the best of my ability.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? To the best of my ability.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Well, thank you very much.

Unless someone has an objection, let us hear from Dr. Copps next, please.

STATEMENT OF HON. MICHAEL J. COPPS, NOMINATED TO BE COMMISSIONER OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. COPPS. Mr. Chairman, Mr. Co-Chairman, Senator Sununu: Thank you for granting us this hearing so soon after our nominations. On a more personal level, let me thank you for the many courtesies you have extended to me during my tenure at the Commission.

Mr. Co-Chairman, your warm and generous introduction and your support touch me in a very deep and a very fundamental way, coming from one of America's true heroes. It is just beyond anything I ever expected when I first came to Washington so many years ago. Thank you very much, and thank you, Senator Stevens, for your support also.

It is always good to come home to the Senate. Fifteen years working here imparted a deep and lasting loyalty in me to this institution and to this Committee. Those years, from 1970 to 1985, working with your friend and mine Fritz Hollings, instilled in me great pride in the honorable calling that is public service.

During my 4-plus years as a Commissioner, I have worked to build an ongoing and cooperative relationship with each of you, with the Committee, and your Congressional colleagues. I have sought to implement the laws that this Congress passed with as thorough an understanding of Congressional intent as I can muster. I look forward if confirmed to a second term continuing to build on this close relationship with you.

Serving as an FCC Commissioner, being on the front lines as the telecommunications revolution transforms our lives and remakes our world, has been an exciting, challenging and inspiring experience. There is always a sobering part to it and that is that it is a high public trust and a lot rides on how we perform, and we need always to remember that communications is the business of every American and every American is affected by what the Commission does.

My objective as an FCC Commissioner is to help bring the best, most accessible and cost effective communications system in the world to all of our people, and I always underline that word "all," whether they live in rural areas or tribal lands or the inner city, whether they have limited incomes or disabilities, whether they are school children or rural health care providers. I believe that Americans progress together or we progress not at all, and each and every citizen of this great country needs to have access to the wonders of advanced communications and information if he or she is going to succeed in the 21st century. I think today having access to those advanced communications is every bit as important, maybe more so, than having access to basic telephone services was in the century just past.

I know that many of the issues now before the Commission are difficult and complex, and I do not believe that any of us at the Commission has a silver bullet solution to all the many challenges

that confront us. I find always that a little humility as we wade into these discussions at the Commission always helps. But I do believe that my colleagues are working collegially now to reach agreements that benefit consumers, foster innovation, and encourage investment in this fast-moving environment.

I also believe that the FCC can serve an even more important role as a resource for Congress as you look at the statutes and how they are accommodating new marketplace developments and what changes may be necessary. We are the expert agency on communications, staffed by incredibly competent public servants. I hope you will look to the Commission more and more and even push us, to provide the data and the analysis and tee up the options on various suggestions that have been made for changing the Telecom Act. There is no reason why we cannot do that. It is not something we have to vote on or whatever at the Commission. We ought to just be churning out these expert papers: If you go down this road on contribution methodology, that road on something else, here are the costs and benefits. I think that would help and I think an independent regulatory agency really has a responsibility to perform that role.

I look forward if confirmed to working with Chairman Martin, the other commissioners—Commissioner Adelstein is here today and my fellow Commissioner-designate Debi Tate—to implement the vision enunciated by Congress, and I pledge to continue working tirelessly, inclusively, and with the best judgment I can garner to get that job done.

I do put a high value on public service. Most of the time I enjoy it. But, as you Senators know far better than me, it can be demanding, especially as those demands fall on the members of one's own family, and that is where they most often fall. So I am grateful to each member of my family for their support and patience and encouragement over quite a few years in public service. I have enjoyed a lot of benefits and a lot of blessings in this life, but the family I introduced is the sweetest reward of all.

So I thank you for having us up here today. Thank you for this hearing. I will be happy to try to answer any questions you may want to ask.

[The prepared statement of Mr. Copps follows:]

PREPARED STATEMENT OF HON. MICHAEL J. COPPS, NOMINATED TO BE
COMMISSIONER OF THE FEDERAL COMMUNICATIONS COMMISSION

Chairman Stevens, Co-Chairman Inouye, distinguished Members of this Committee, thank you for granting us this hearing so soon after our nominations. On a more personal level, allow me to thank you for the many courtesies you have extended to me during my tenure at the FCC.

It's always good to come home to the Senate. Fifteen years working here imparted a deep and lasting loyalty in me to this institution and this Committee. Those years from 1970 to 1985, working with your friend and mine, Senator Fritz Hollings, instilled in me great pride in the honorable calling that is public service. During my four-plus years as a Commissioner, I have worked to build an ongoing and cooperative relationship with each of you, the Committee and your Congressional colleagues. I have sought to implement the laws Congress passed, with as thorough an understanding of Congressional intent as I can gather. I look forward, if confirmed for a second term, to continuing to build on this close relationship with you.

Serving as an FCC Commissioner—being on the front lines as the telecommunications revolution transforms our lives and remakes our world—has been an exciting, challenging and inspiring experience. The sobering part of being a Commis-

sioner is that the office is a high public trust. A lot rides on how we perform, and we need always to remember that communications is the business of every American and every American is affected by what the Commission does. Every American has a vested interest in how the Commission performs. Everyone is a stakeholder, and I try to think about that every day.

I have tried during my time at the Commission to give meaning to the public interest by promoting the core values Congress gave us in the Communications Act—things like promoting the safety and security of the people through reliable communications, a challenge brought home to us by 9/11 and also by the ravages of nature's hurricanes this past summer; values such as preserving and advancing universal service so that every American can benefit from the liberating opportunities that new technologies and services provide; values like developing more competition to benefit consumers and to spur innovation; and values, in the media, supporting localism, diversity, competition and family-friendly programming—things this Committee has worked hard to preserve.

Mr. Chairman, my objective as an FCC Commissioner is to help bring the best, most accessible, and cost-effective communications system in the world to all of our people—whether they live in rural areas, on tribal lands or in our inner cities, whether they have limited incomes or disabilities, whether they are schoolchildren or rural health care providers. I believe that Americans progress together or we progress not at all. Each and every citizen of this great country needs to have access to the wonders of advanced communications and information if he or she is going to succeed in the 21st century. Today, having that access is every bit as important—maybe more so—than having access to basic telephone services was in the century just past.

I know that many of the issues now before the Commission are difficult and complex. I don't believe that any of us at the Commission has a silver bullet solution to all the many challenges that confront us, and I find that a little humility as we wade into these discussions always helps. But I do believe that my colleagues and I are working collegially to reach agreements that benefit consumers, foster innovation and encourage investment in this fast-moving, paradigm-shifting environment.

I also believe that the FCC can serve as even more of a resource for Congress as you look at how the statute is accommodating new marketplace developments and what changes may be necessary. We are the expert agency on communications, staffed by incredibly competent public servants, and I hope you will look to us more and more—and even push us—to provide the data and analyses you need, and to produce more options for you, teeing up the pros and cons of different ideas to deal with the communications challenges confronting our country. I believe that an independent regulatory agency has an obligation to provide you with that kind of input.

I look forward, if confirmed, to working with Chairman Martin, the other Commissioners, and my fellow Commissioner-nominee Debi Tate, to implement the vision enunciated by Congress. I pledge to continue working tirelessly, inclusively, and with the best judgment I can garner to get this job done.

I put a high value on public service, and, most of the time, I enjoy it. But as you Senators know better than me, it can be demanding, especially as those demands fall on the members of one's own family, and that is where they most often fall. I am grateful to each member of my family for their support, patience and encouragement over quite a few years in public service. My lovely and wonderful wife Beth and I have been blessed with five great children—three of whom are here today. They are our pride and joy and life's sweetest reward.

Mr. Chairman, this concludes my brief statement. Thank you for your attention and for your many kindnesses through the years.

A. BIOGRAPHICAL INFORMATION

1. Name: Michael Joseph Copps.
2. Position to which nominated: Commissioner, Federal Communications Commission.
3. Date of Nomination: November 9, 2005.
4. Residence: information not released to the public. Office: 12th Street, SW., Room 8-A302, Washington, DC 20554.
5. Date of Birth: April 23, 1940. Place of Birth: Milwaukee, Wisconsin.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage):

Spouse: Elizabeth Miller Copps, Church Secretary, St. Mary's Catholic Church, 310 Duke Street, Alexandria, VA 22314.

Children: Robert Edmund Copps, 34; Elizabeth Copps Von Hagen, 31; Michael Albert Copps, 27; William Thomas Copps, 19; Claire Louise Copps, 17.

7. List all college and graduate degrees. Provide year and school attended.

B.A. Wofford College, 1963.

Ph.D. University of North Carolina at Chapel Hill, 1967.

8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Administrative Assistant, U.S. Senator Ernest F. Hollings, 1974–1985.

Deputy Assistant Secretary of Commerce, 1993–1998.

Assistant Secretary of Commerce for Trade Development, 1998–2001.

Commissioner, Federal Communications Commission, 2001–present.

9. List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last five years: None.

10. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational or other institution within the last five years: None.

11. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

Westgrove Citizens Association, Alexandria, VA, 1976–present. My neighborhood community association. This group has no membership restrictions.

AARP (American Association of Retired Persons), 1995–present. This group has no membership restrictions.

St. Mary's Catholic Church, Alexandria, VA, 1976–present. Parish member. No membership restrictions.

St. Mary's Home and School Association, 1977–2002.

University of North Carolina Graduate School Advisory Board, 1997–1998. Unpaid advisory position. Resigned after being appointed Assistant Secretary of Commerce. This group has no membership restrictions.

Gonzaga High School Fathers' Club, Washington, D.C., 2000–2004 (while son attended). This group has no membership restrictions.

12. Have you ever been a candidate for public office? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

Hollings for Senate Committee, \$1000 in 1992.

Hollings for Senate Committee, \$1000 in 1998.

DNC Federal Account, \$1000 in 2000.

DNC, \$500 in 2004.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.

Honorary Doctorate of Laws, Wofford College, Spartanburg, SC 2005.

Phi Beta Kappa, Honorary Academic Fraternity.

Pi Gamma Mu, Honorary Social Science Fraternity as college undergraduate.

NCM (New California Media) 2005 Ethnic Media Appreciation Award.

Common Sense Media Award for Outstanding Contribution to Kids & Family Media.

2003 Communications "Good Scout" Award.

Alliance for Community Media Director's Choice Award.

2005 American Spirit Award from The Caucus for Television Producers, Writers & Directors, 2005.

SHHH (Self Help for the Hard of Hearing) 2005 Telecommunications Access Award.

15. Please list each book, article, column, or publication you have authored, individually or with others, and any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Speeches & Remarks: As an FCC Commissioner, an important part of my responsibility has been to deliver remarks and speeches to a variety of audiences on a broad range of communications issues. These presentations no doubt number in the hundreds. I retain copies of many of my more formal presentations and some of these are also available on the FCC web site.

Articles, Columns, Other Publications:

1. Michael J. Copps, *As Broadcast Decency Wanes, Feds Stand Ready to Act*, *USA Today*, February 4, 2002, at 15A.
2. Michael J. Copps, *Crunch Time at the FCC*, *The Nation*, February 3, 2003, at 5.
3. Michael J. Copps, *Battle to Control Internet Threatens Open Access*, *San Jose Mercury News*, December 15, 2003.
4. Michael J. Copps, *The "Vast Wasteland" Revisited: Headed for More of the Same?*, 55 *Fed. Comm. L.J.* 473 (2003).
5. Michael J. Copps, *Corporate Media and Local Interests: Downsizing the Monster*, *San Francisco Chronicle*, July 19, 2004.
6. Michael J. Copps, *Homeland Security Is Job One*, *Broadcasting & Cable*, August 16, 2004, at 36.
7. Michael J. Copps, *Show Me the Convention*, *N.Y. Times*, August 30, 2004, at A19.
8. Michael J. Copps, *Consolidation and Obligation*, *Broadcasting & Cable*, September 27, 2004, at 68.
9. Michael J. Copps, *A Chance to Weigh In on Media Consolidation*, *Minneapolis-St. Paul Star Tribune*, December 9, 2004.
10. Michael J. Copps, *Where Is the Public Interest in Media Consolidation?*, in *The Future of Media 117* (Robert McChesney, Russell Newman & Ben Scott eds., 2005).
11. Michael J. Copps, *Disruptive Technology . . . Disruptive Regulation*, 2005 *Mich. St. L. Rev.* 309 (2005).

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony.

I testified three times before Congress as an employee of the American Meat Institute, (Arlington, VA):

- July 12, 1990—Subcommittee on Agricultural Research and General Legislation, U.S. Senate Committee on Agriculture, Nutrition and Forestry. Subject: U.S.-Canada Open Border Agreement.
- March 13, 1991—Committee of Agriculture, House of Representatives. Subject: Support of Fast-Track Trade Negotiating Authority Extension.
- April 9, 1992—Subcommittee on Agricultural Research and General Legislation, U.S. Senate Committee on Agriculture, Nutrition and Forestry. Subject: U.S.-EU Trade Dispute.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers: None.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modifica-

tion of any legislation or affecting the administration and execution of law or public policy.

As a Commissioner at the FCC, I have been inevitably involved in implementing the communications statutes passed by Congress and in rule-makings and adjudications coming before the Commission. Additionally, I have tried to serve as a resource for this Committee and for Members of Congress on communications issues. I believe that it is part of the Commission's responsibility, as an expert agency in these matters, to provide information and options to Congress.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I have no such conflicts of interest, nor do I envision any developing. Should one ever develop, however, I would immediately take whatever steps are required to eliminate the conflict as well as the appearance of any conflict of interest.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: I have no material to add to the information already submitted.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees? Yes, insofar as the authority of the position to which I have been nominated can influence the actions of the agency.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes, insofar as the authority of the position to which I have been nominated can influence the actions of the agency.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. Well, I thank each one of you for your statements, very welcome statements as a matter of fact.

Commissioner, we are pleased to see you here.

Ms. Tate, during your time there at the Tennessee Regulatory Authority did you focus on any particular area of communications?

Ms. TATE. Well, as you know, Mr. Chairman, we deal mostly with telecommunications, as opposed to the broader array of issues that the FCC deals with. But while there, obviously, I would like to answer the question, if I could, in terms of broader issues. I really tried to concentrate on outreach to consumers, education to consumers, holding forums, updating our website, for instance, to provide more information to consumers.

Then the other, rather than an issue, but more a philosophical approach, and that is trying to bring consensus with the industry. I also have a background in mediation and I believe that this is one of those areas in which sometimes litigiousness actually gets in the way and, that when you bring people together and actually realize

that we are after many of the same goals, and I believe that as we recognize these they are not partisan issues, they are really goals that we can all sit down and discuss. So I was fortunate enough to be able to work with the industry in Tennessee and feel that I was able to bring some consensus together with the industry.

The CHAIRMAN. Thank you very much for that. Just thinking back, the two of us being from offshore states, years ago you used to see on television the ads which would say: These rates apply throughout the United States except Hawaii and Alaska. We sponsored the resolution requiring rate integration, which really led to the formation by the industry of a universal service fund. It was not a tax. It was the industry itself that broadened the scope of communications and took our two states into it through the universal service fund.

So I ask you, Ms. Tate, in terms of your service there in Tennessee, did you deal with universal service? Are you familiar with the concept and have you formed an opinion about universal service?

Ms. TATE. Well, absolutely. Have I formed an opinion? Yes. What an incredible, not just program, but national issue that it has been; to provide telephone service to all Americans at affordable rates. So yes, I have seen that. In fact, people in Tennessee are tired of hearing the story that I remember the day that my grandmother, the very last farm on a gravel road between Tennessee and Kentucky, got her phone. So I have seen what it is like to be in a home where there was no phone, where you were not connected to the outside world.

Certainly I have not had the opportunity to see what "rural" means in terms of your State, but this was a very rural existence on a farm that was far out in the country. So I remember the day that the phone got put in and how exciting it was to be connected to the rest of the world and to services that you needed.

So yes, sir, I am very supportive of universal service and the concept.

The CHAIRMAN. Thank you very much.

Commissioner Copps, I spoke to Fritz Hollings just last week, and I know you were with him for a long time and that was a wonderful statement you made. We are going to take you up on that offer to work with the Congress, because if the Congress will listen to me we will modify the Telecommunications Act of 1996 to become the Communications Act of 2006.

Can you tell us, do you have any specific initiative that you would like to follow, pursue, in your coming term at the Commission?

Mr. COPPS. Well, I do, and I think we have already talked about some of them. If I really had to prioritize and try to generalize what we need to do, let me mention one thing in telecommunications, maybe one thing in media, and one thing about how this Commission runs that I think could use our attention and the attention of the Congress. There have been lots of suggestions for changing the Act. Universal service is so central to the future of this country, whether you go out on the tribal lands and see the digital divide that exists out there or you go to Aniak or Manokotak or Levelock in Alaska and see how removed these peo-

ple are from the wonders of communications, and that divide is just going to get wider and wider unless we can make universal service really serve all of these people and bring opportunity to them.

So I think we have got to fix that system. We have got to get the contribution methodology right, and also deal with distribution, where it is going.

Then I think we need some guidance from the Congress on what is it that is meant by “universal service.” I think I understand what the intent of the Telecommunications Act is. I think it talks about advanced telecommunications and I think it wants me to be working to get advanced telecommunications to all Americans. But I do not know that everybody quite agrees with my interpretation.

So I think there is a need for Congress to make clear where advanced telecommunications and where broadband fits into the 21st century and how do all of these new technologies that are coming along—and Senator Sununu and I have talked about this—do they have some obligations that attend them, as obligations attended the telephone system in the past century? If we are going to communicate in a new way, do consumers have a right to expect consumer protection, universal service, homeland security, disabilities rights and other protections? We really have to make that accommodation and that is a huge, huge challenge. So I guess that would be my telecommunications emphasis.

Media, as you know, is near and dear to me and close to my heart. I am very worried about the extent of media concentration in the United States of America. I do not oppose all mergers and all acquisitions, but I think we need to look at them more closely and I think the rules on ownership have to be tightened. The previous Commission under the previous chairman tried to loosen the ownership rules and did it in what I thought was kind of a ludicrous way. The Third Circuit Court of Appeals agreed, turned those rules down, and sent them back to us.

So I think a huge priority of the Commission in 2006 is to get this proceeding right, do it in the open, do it publicly, ask the right questions, do the studies, and reinvigorate broadcasting. I love broadcasters and I think the flame of the public interest burns brightly in many of their breasts. But it is hard for them in a consolidated media environment to survive. It is always “the bottom line, the bottom line.”

We have got to reinvigorate broadcasting with some public interest obligations. We have allowed licensing terms to go to 8 years and to get it renewed, you send in a postcard and you are relicensed. It should be every 3 years or 5 years and I think that licensing should be conditioned upon the Commissioners at the FCC saying: That station is serving the public interest; you are doing a good job; you get the go sign, you get it for another 5 years. But we have just drifted too far from that.

I get carried away on this issue, so I will just leave it there.

Third, on FCC reform itself, I did not know we had a mediator here in the person of Debi Tate. Where were you a couple of years ago? We really could have used you then at the Commission. But you know when these mediation skills would really work: If we could sit down together at the Commission and talk together. We have an Open Meeting Act that precludes more than two Commis-

sioners from ever sitting down and meeting together to decide issues. Nobody else works that way that I know of. Congress does not work that way. The court does not work that way. Even in my Catholic Church, the cardinals get together and select the new pope. So if it is good enough for Congress and good enough for the courts and good enough for Holy Mother Church, it ought to be good enough, I think, for the Federal Communications Commission.

So I think we need to look at that. And you know what? Since we now have only three members at the Commission, I have spent the last 3 days trying to find out if I can talk to Jonathan Adelstein; can I go down the hall and talk to Chairman Martin? I am told they think I can, but we are still researching this. That is pretty sad. We have got three people down there at the FCC and we cannot talk to each other. So I think we need some help on that.

So those would be three things that I would suggest for your attention and for our attention.

The CHAIRMAN. We intend to address that last question. I think it is stupid that we cannot have more than one Commissioner here at a time. As a matter of fact, we may be violating the law right now.

Let me say this. I think communications has gotten to the point where safety is involved. I am reminded of a young man who came to see me. He was one of two snow machiners who were going across an open plain, a really snow-covered plain near Mount McKinley, and he didn't expect to, but he hit a crevasse. He had a partner that did not hit it and suddenly he is down there about 30 feet below the surface and stuck. His skis are stuck in the sides of the crevasse.

His partner is trying to figure out how to get to him; did not have a rope, did not have anything. Finally he remembered he had a cell phone. He pulled it out, turned it on, and dialed 911, and 24 minutes later the National Guard pulled him out of there with a helicopter with a rope.

Now, you have to hear those stories to understand what communications means to this country now, whether it is the single woman driving on a lonely road who has a flat tire and needs help or a person stuck in a crevasse. This is to me one of the basic rights of Americans now, is access to communications wherever you are.

I look forward to working with you.

Senator Inouye.

Senator INOUE. Thank you very much.

Senator Rockefeller could not be here with us and he regrets that very much, but he has asked me to ask a couple of questions. The first is to Ms. Tate and the question goes as follows. As you know, the FCC has a notice of proposed rulemaking in which it seeks public comment on changing E-rate's current application-based program into a formula grant program. Do you support maintaining the system for allocating schools and libraries funding or do you support allocating funds to states in the form of a block grant. Ms. Tate?

Ms. TATE. Thank you, Senator. Well, first of all I just have to say, and with former Governor Sundquist here, I want to say that through his leadership; Tennessee was the first state to have every

single school connected through the E-rate funds. So we have seen first-hand what that has been able to do for a poor, somewhat rural, southern state. It has been wonderful to see first-hand.

I know I had an opportunity to go to several schools while I was on the Governor's staff and to see what they were able to do in those classrooms and the libraries and how they would be able to connect to professors and experts all over the world in ways that would not have been possible without the E-rate funding.

I have to be honest that I have not had an opportunity to review all of the comments and so I have not had an opportunity to study what some of the proposals may be. I am frankly not familiar with all of those proposals. However, like all of us, we want the funds to be spent well, we want to reduce any possible inefficiencies, and I think that the FCC has begun to look at some ways to be able to do that.

So I am very supportive of the E-rate funds and what they have done for Tennessee and Tennessee school children. Thank you.

Senator INOUE. Thank you very much.

Commissioner Copps, I am certain you are aware that 67 percent of Native households as compared to 94 percent for America, the rest of America. As far as Internet access, as the Chairman pointed out, less than 10 percent of Indian Country has access to Internet. So obviously there is some digital divide or gap.

What do you propose to do as a Commissioner?

Mr. COPPS. Well, there is a serious problem here. I have been to Indian Country. I have seen that digital divide. I have seen the unemployment rate, which is just unbelievable. In some of these places, 60 or 70 or 80 percent of the people have no job. Communications can do so much, especially advanced communications if you can get them in there, to move Indian Country ahead.

The first thing we have got to do is really treat Indian Country the way it should be through our trust relationship. I think it is important always to recognize that precious relationship. Then we have to do a better job of outreach. I think the Commission has tried to outreach and do a lot of meetings and sessions and seminars and things like that. But I think we need to do a lot more in the way of outreach and make sure that the folks in Indian Country know what is going on at the Commission and which decisions are being made that can affect them.

Then we need to be serious about making sure that advanced telecommunications are getting deployed there. We have tried to do enhanced lifeline and enhanced linkup programs which help a little bit on universal service. But we have not scratched the surface of what we need to do. It is a glaring national problem and it is a glaring national embarrassment. We need to fix it and we need to fix it now.

Senator INOUE. Thank you very much.

I am certain both of you are aware that in recent weeks, under the guidance and leadership of Chairman Stevens, the Committee has been focusing on indecency and violent programming. In fact, yesterday we had a forum on that. Ms. Tate, how would you approach these issues? For example, yesterday the president of the cable companies announced that several cable companies will now establish family tiers. Do you have any views on that?

Ms. TATE. Well, obviously as a mother, first of all, who has just raised three children, I share a lot of the concerns that I hear and that I have read about. I would just like to congratulate you and Chairman Stevens for scheduling these hearings.

I was studying yesterday, so I did not have a chance to view all of the hearing. But what was incredible to me was that in just a short period of time several members of the industry had actually come forward and are engaging in a voluntary, I guess, code of conduct, and that they themselves are coming forward and saying that they want to participate rather than have regulations foisted upon them, I suppose.

So I thought in a very short period of time there has been an awful lot of progress made, and I would just congratulate you on that. I think that it is important that the Commission enforces the law that we have and the rules and regulations that the FCC has implemented to interpret that. I think that I support the broadcasters' choice of not showing certain materials. Then of course, it harkens back to when I was growing up and you actually sat around the television and had family viewing hour and we watched "The Wonderful World of Disney," I suppose, on Sunday night together.

So I think a lot of progress is being made at this time.

Senator INOUE. Do you believe that under the circumstances of voluntarily coming forth with programs of this nature that it would not be necessary for Congress to legislate decency?

Ms. TATE. Well, Senator, I think I would want to see what the industry perhaps proposes specifically rather than trying to give you a specific answer. I am not sure exactly right now what their specific proposals are, but certainly I would want to review those, and also recognizing that these are issues that I believe the courts and the FCC have said are—that we need to have a contextual analysis for each one of these on a case-by-case basis. Is that something I could get back with you on?

Senator INOUE. Oh, yes.

Ms. TATE. Thank you, Senator.

Mr. COPPS. Can I comment on that?

Senator INOUE. Please.

Mr. COPPS. I think the first statement I gave at the Commission was on indecency when I went there 4 years ago and it was kind of a lonely battle at the time to get most of my colleagues interested. Events since then have helped make that happen. But you have really brought the industry along in this Committee a lot farther than I was able to do. I have tried for 3 or 4 years to get cable and the broadcasters and the associations to sit down and finally hash this out and give us something meaningful, like they used to have in the old voluntary codes of conduct years and years ago.

So I am encouraged that they are stepping forth. I think we are in the early stages of this. I think it is going to require a lot of pressure. I do not think we are anywhere near the point where we can say: no, we do not need legislation, or we are not going to need legislation. So for now, I'd take the Ronald Reagan approach of "trust but verify."

But this is not going to happen by itself. We have got to define what a family tier is. We have got to figure out how much it is

going to cost and figure out if it is going to solve the problem. In the final analysis, it is not going to be the media or anybody else who decides if this fight against indecency is working. It is going to be the American people. If they have programs that are cleaned up, if they have the opportunity to enjoy family viewing, then we will have made progress.

A 2005 Kaiser study reported that 70 percent of shows on television contain sexual content. So you can cite some examples where companies are doing things, but we are not there yet. We have a long way to go. Again, I would say trust but verify. Most importantly let us keep pushing.

There are roles for everybody here. There is a role for families. There is a role for the Commission to do its job and enforce the law. When we put out statements saying, yes, this is indecent or, no, this is not indecent, we need to explain our reasoning. That is how you figure out what indecency is. We cannot sit there and write a guideline or a little book and say, here, Mr. Broadcaster, this is it. Like in law, you amass a history of jurisprudence and use that to set the parameters. That is not easy and it is not clean. It is kind of messy, but I do not know any other way to get there.

So there is a role for the Commission and there is a role for Congress, and I am glad to see you leading.

Senator INOUE. Commissioner Copps, how would you grade the performance of the Commission in combating gratuitous violent programming?

Mr. COPPS. D minus or close to an F. I do not think we have met the issue of violence at all. We might need some help from Congress there. The House asked for a report on violence over a year ago. I think under our new Chairman that report is now being produced. But we have not stepped up to the plate on that.

On indecency generally, I would not give us good marks. The Commission is as much a cause for the state of indecency in this country as any broadcaster, because we ignored the law. We just turned the other way for years and years and years. So some in industry kept pushing the envelope. Nobody said anything, so they pushed the envelope farther.

We made it hard for consumers to complain. They had to come with a tape or a transcript. Imagine my wife riding around in the carpool with seven kids in the van and she hears something on the radio that is indecent. How in the world is she supposed to record that or have an exact transcript? But that is what we demanded for years and years up until recently. I think that is getting better now, but I am not 100 percent convinced yet.

So we have to have a good process. We have to do these things in a timely way and we have to establish the precedents, as I said before. We have done a lousy job of that historically. I think in the last year or so we have done much better, and I think I am encouraged that we are more resolute now in this Commission than we were before. But if you look at it historically it is not a good grade and we have not been part of the solution. We have been part of the problem.

Senator INOUE. Mr. Chairman, I am ready to vote for these two.

The CHAIRMAN. Senator Sununu.

Senator SUNUNU. Thank you, Mr. Chairman.

Mr. Copps, I cannot tell you how much it warms my heart to hear you looking to Ronald Reagan for regulatory guidance.

I very much appreciate both of you being here, but more importantly putting in the time to meet with Members of Congress. Both of you have taken the time to come to my office to talk about a number of issues, some of which I would like to go over again. But it is very time-consuming. The issues are complex.

One of the nice things about this Committee from a member's standpoint is that a lot of the issues we work on cut across party lines. The bad news for you is that it does not matter whether you are a Democrat or a Republican nominee; you are going to get it from both sides, and that does make your job difficult. But both of you obviously have dedicated yourselves to public service and that is very much appreciated, I think.

Mr. Copps, in your opening statement you said that you would work on the Commission, continue on the Commission working to achieve, "as thorough an understanding of congressional intent as I can muster." Do you mean to suggest that in the past Congress has been less than crystal clear in the legislation we have passed?

Mr. COPPS. I would only suggest that as time goes on and technology evolves in a revolutionary way and markets change and services change, that from time to time we all need to take a look at the new world around us.

Senator SUNUNU. Maybe you should be in the Foreign Relations Committee pursuing a diplomatic post.

I appreciate the fact that we are not always as clear as we should be. I think one area that has shown itself to fit in that category is universal service. I really just want to make a comment, picking up on some of the points that you made. You talked about three areas. I think as we do a reform bill it is very important that we do what we can to make this program work better. There are things about the program many of us like, things about the program many of us dislike, but I do not believe it works nearly as effectively as it can, keeping in mind the original intent.

You mentioned three areas: contribution, and I think the points you made are very good. We need to revise and reform the contribution methodology, broaden the base, lower the average per-line charge that I think disproportionately penalize some of the people that this is intended to benefit. The single line subscriber who might be older, on a fixed income, lower means, they are still paying a charge and oftentimes it is disproportionately high.

So I think we need to broaden the base. I support a methodology based on numbers. I know that is something the Commission is looking at. But the contribution methodology reform is extremely important.

Second is distribution, and I think this is equally important: improving the way we distribute the resources, keeping in mind the original Congressional intent, which I think was fairly clear. High-cost areas and areas of disproportionately low incomes, that is the intent. In creating the complexity in the distribution system, I think we have either made the program less effective or created situations where those two overriding concerns are not always first and foremost in the program.

I do not think we need eight or ten different streams of distribution support for universal service. I think it could be much more effective if we reform the distribution, again keeping in mind what the original objectives of the program were.

Then the last is probably the area that is more challenging, which is exactly what do we mean by universal service, what are the services or the technologies or the products, consumer products, that we are subsidizing here. It is a little bit more challenging and I think that will be an important part of the debate. But I do think there ought to be an opportunity for states to participate to a greater extent than they have in helping to decide exactly how these resources can be used.

We should not just assume that Members of Congress or the Commission are the only ones that could possibly know how these universal service funds can be best used in the State of Tennessee or the State of Alaska or the State of Hawaii. I think there are going to be different services and needs and infrastructure that ought to be receiving funds in order to meet whatever goals you or I might have in mind.

So I just want to make those three points. I think they are roughly in keeping with the concerns you raised and concerns others have raised, but all of those are much more important than the size of the fund. I can imagine an excellent program and one that someone who is fairly deregulatory minded like me would support that costs \$10 billion, which is far larger than the current program. I can also imagine a program that is a disaster, that does not really get assistance to those high-cost states, to the rural states, to states with higher levels of income, that only cost \$5 billion, and just does not work, does not achieve our goals, does not meet Congressional intent.

So I think we need to focus on the parameters you laid out. First and foremost, obviously we want to have a fund that is fiscally responsible. But the way we handle it is much more important.

Let me move to Voice Over IP, something we talked about in my office. There are a lot of VOIP companies that have done all that they can to date and will continue to do all that they can to comply with the FCC's E-911 VOIP ruling and obligation. There are a number of technical limitations and there are also some operational problems for which the VOIP providers are not responsible that have made it difficult for them to hit all of the deadlines.

First, I want to make sure we are working on the same wave here. You believe these companies, do you not? You do not think they are misleading or lying about the technical challenges or the organizational challenges associated with getting access to the routers?

Mr. COPPS. No, I do not.

Senator SUNUNU. The marketing ban that has been proposed by the FCC, though, is something that strikes me as quite unusual, actually preventing a company from marketing a consumer product. Can you give any examples of other areas or other cases where the FCC has imposed a marketing ban like the one that is affecting the VOIP providers?

Mr. COPPS. No, and I would note that we did not vote on this particular aspect of what we are doing. I understand people who

express doubts about imposing a marketing ban. By the same token, though, I have doubts about a company who would offer service without this kind of protection that the public expects. I think we ought to be asking them that question, too.

But a lot of the large companies now, with only a few exceptions, are not marketing while they develop the capacity to do this. We have come a long, long way in the 120 or however many days it was since last July that the Commission really took this up in a strong way and came with these requirements. We have gotten there, I think, with a lot of cooperation. I think there has been considerable flexibility. There was initial talk we are going to disconnect people, but I think the Chairman and the bureaus have shown flexibility in making sure that did not happen.

But we have got to get to a situation where we do not have a repeat of what happened in Texas or what happened in Florida, when somebody picks up that phone and is confident that that phone, like any other phone, has the capacity to connect them to E-911 and it does not. This whole public safety and homeland security thing has to be much more of a priority at the Commission. I think we are doing a good job recently, but we have really got to jump on it.

I think we need to get this done. I think we are making progress and I think we will get it done.

Senator SUNUNU. I agree that we are making progress. I certainly agree that it is important and it is something that the Commission should focus its attention on. But my concern is that we, one, are not punitive or discriminatory in terms of setting goals or objectives and then working to implement them.

A case in point: Is all wireline service compatible with providing E-911 coverage and capability?

Mr. COPPS. The answer is no, but I have tried to be as tough on those carriers as I am here. We should remember since the mid-1990s wireless has been able to deliver a 911 call to the local PSAP.

Senator SUNUNU. I am not speaking——

Mr. COPPS. I know you are talking about the——

Senator SUNUNU. But I am talking about wireline.

Mr. COPPS. Wireline, I am sorry.

Senator SUNUNU. I am talking about traditional wireline, that not all wireline providers have E-911 service. In fact, not all wireline providers have 911 service. There are still over 100 counties in America where you have to dial ten digits to get emergency service, and I think we should work to help or assist or make sure that we have good emergency response systems in those areas, as we should for wirelines or VOIP, but we should not be discriminatory and punitive in the solutions we put out.

I believe that you appreciate those points. I hope you will take them to heart. I certainly cannot speak to exactly how Ms. Tate would deal with these issues. We had the opportunity to speak about them as well. As a commissioner in Tennessee, I think she had to deal with a lot of rural areas that do not necessarily have the 911 service that we would like to see. But we want to make sure—I would like to make sure that you are not being discriminatory in your approach.

I would like to ask both of you, make sure both of you are aware of the nature of the legislation that passed this Committee unanimously just a few weeks ago, it dealt with E-911 for IP providers, that provides a waiver process for the FCC rules, which would include the marketing ban. I think it provides those waivers in a very reasonable way. Is it fair to say that both of you are familiar with that?

Mr. COPPS. I am aware of that. I know it talks about access to routers. I know we talked about it when we voted on all of this, and I stated that the companies had to have the tools if we were going to have the expectation that they were going to be in compliance. I welcome what the Committee bill does on liability. I do not think the Commission has too much authority there, so we are glad for the help from there.

I think we will look at the waiver process. At the risk of—I hope I am not being confrontational, but I have a doubt about 4-year waivers when we get into something like this. There is always the opportunity for companies to get a waiver. There are conditions perhaps where it would be appropriate to grant a waiver. But I think we have to look at the time and set that against the progress that is going to be made. I think in a year or two all this is going to be behind us.

Senator SUNUNU. I love that sense of optimism. That is Ronald Reagan's sense of optimism talking there, too.

Mr. COPPS. I love it too.

Senator SUNUNU. One final question, and I appreciate I have asked quite a number of questions already, but for Ms. Tate. I think Commissioner Copps mentioned the idea of mediation. I believe this is something that you worked on to quite a degree in Tennessee. You advocated in a piece that you wrote that consumer complaints and carrier-to-carrier disputes for IP could be resolved through an FCC-led arbitration process based on a best and final approach similar to, not identical to but similar to, the arbitration process in baseball.

This is something that I have taken a look at and we are looking at crafting IP legislation. Could you talk a little bit about what the value of this kind of an arbitration process is dealing with regulations or complaints, and do you think that it could be used for circumstances even beyond IP, Voice Over IP?

Ms. TATE. Well, I am certainly a strong advocate, as I said before, of alternative dispute resolution, and we even touched on this a little bit, and I am hopeful and optimistic, as Commissioner Copps and you have noted, that carriers would be able to come to some kind of agreement between themselves, and that this might be in order to not have the government enter into any of that.

So I would love to sit down and talk about this further. I do not really have anything specific to lay out here today. But it was really just more of the concept of the carriers agreeing. It is to their advantage to work these things out.

Just as an aside, yesterday I wanted to—I am sorry Senator Alexander is not here to hear me say this, but—"Find the good and praise it." Yesterday we had all of the VOIP providers come to Tennessee to make presentations on where they were on meeting these deadlines. So we invited them to come; we did not order them to

come. They are not required to come through any kind of legal authority. But they all came, and they have made tremendous progress. Vonage and BellSouth have actually come to an agreement, which was something that had not happened before.

So I guess just to say, I am really optimistic, based on what is going on in Tennessee. So I would love to continue to talk with you about some of these more specific provisions and whether or not we might be able to craft some language for a bill.

Senator SUNUNU. Thank you.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

I just might say parenthetically to the Senator from New Hampshire, I think that this waiver business depends on who the entity seeking a waiver is going to compete with. If they are going to compete with someone who is providing 911 and want an exemption from it, it gives them basically an economic advantage to get the waivers. I would oppose such waivers at that time.

Senator PRYOR.

**STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman.

Dr. Copps, I would like to start with you if I may, and that is just a general question because, as you are well aware, there has been a lot of discussion here in the Committee and in the hallways around the Senate about a broad telecom rewrite. In fact, I know that many were hopeful that this Committee would take that up this year. We have not done that, at least not in full, and many are hopeful we will try to do that next year.

But my question for you is, from your perspective, given your expertise and familiarity with the lay of the land today and the state of the law today, do you think that the Congress should pass a broad telecom rewrite or do you think we have enough existing law on the books today and maybe Congress should pass some tweaks or some less broad, more narrowly tailored type telecom legislation, or should we pass nothing at all. I would like to get your thoughts on that.

Mr. COPPS. Well, if I knew it was going to be delivered and passed and produced, I would take the generic wholesale rewrite that delves comprehensively into a lot of these problems. But I know it demands a certain correlation of political forces and otherwise to get that done, so we may have to settle for the tweaks.

But as I indicated earlier, I think in just about every area under the jurisdiction of the Commission and the Committee I think there is a need for some elaboration. We talked about the need on broadband: is broadband going to be a part of universal service? That is a big question that goes to the fundamental purpose of universal service. Is it really going to be all about taking these new technologies and making them available to everybody in the United States no matter where they live, and when they use these new technologies do they have a right to expect some of the protections that were provided in the era of telecom and the telephone companies—consumer protection, disability rights, and these other things. We have got to make that clear.

That may already be in the law. I think I am happy going forward and my interpretation is that it is there, but I do not know that I could get a majority for that. So I think there has to be some additional clarity there. We have got to fix universal service, although that may be something that we can kind of isolate on the contribution methodology and work on that.

But then we have to do something, I think, to clarify the media ownership rules and where are we going in the media. I would just say as a general statement, I am also a small “d” democrat. I believe if you give the people the information they need and the facts they need that more often than not, maybe not always but more often than not, the American people will come down on the right side of a question and make an intelligent decision.

I think, in some degree because of media consolidation, that we are skating perilously close to denying them that kind of information. I think we are tampering around the edges of hurting our democracy. Some may say this is overblown rhetoric, “there he goes again,” but I feel this really deeply. I think it has already had some bad effects in harming localism and diversity and competition.

So we have got to do that. And we have to—and we were talking about this a little bit earlier—reinvigorate some of the old public interest obligations. There are almost none right now. Thirty or forty years ago if a station wanted to get a license, they had to meet an explicit list of different things that they are doing. Are they going out to the community, finding out what people want to hear and see, doing children’s programming, public events, community events. That is all basically gone. You mail in a postcard and every 8 years you get your license.

I think the people expect more than that, people I have talked with in going around the country expect more than that. They own the airwaves. They want those airwaves to serve the public interest. Nobody is denying a broadcaster the right to make a good living by the use of those airwaves, but there is a precious *quid pro quo* involved for the use of those airwaves. That is serving the public interest, and we need to emphasize that again.

We talked a little bit about maybe doing something with the Open Meeting Act at the Commission so the Commissioners can meet together. Those were some of the things I would like to see changed. If it really does open up into a comprehensive exercise, we can probably produce several more suggestions.

Senator PRYOR. Ms. Tate, do you have any views on whether there should be a comprehensive piece of telecom legislation or just more isolated pieces or nothing at all? Do you have any views on that?

Ms. TATE. Well, I want to agree with what Commissioner Copps has said. These are changes that we need, if confirmed, to be able to function as an agency. The concern about the sunshine law. And I agree with him as well, it is hard to say, yes, I would definitely be for an entire rewrite when you are not sure what all might end up in that. But I think that he has outlined some broader policy principles.

I would want to underscore what he said about persons with disabilities and some of the other responsibilities that he outlined. I think it is really important, too, to recognize that while everybody

here is connected to a Blackberry, not everybody across America is. There has got to be some kind of transition between now and where we all see we are going.

So thank you.

Senator PRYOR. Good.

Dr. Copps, you may have covered this earlier and I may have missed it, but do you know what the rate of broadband deployment is in the U.S. today? Is there a number out there?

Mr. COPPS. I do not have the exact number, but I can tell you that broadband deployment generally is not anywhere where it should be. The ITU pegs the United States as number 16 in the world in penetration of broadband. I do not think that is acceptable. Other countries obviously have different demographics. I do not think you can compare rural Alaska or Hawaii or rural areas in any State with maybe an apartment building in Seoul, Korea, or Tokyo, so we cannot expect that to be equal.

But I think there are lessons to be learned. We have fiddled around until now at the Commission, defining broadband as 200 kilobits up and down. The world moved beyond that a long, long time ago. We are finally catching up.

We looked at broadband penetration and said, oh, one person in this zip code has broadband, ergo deployment is proceeding in a reasonable and timely fashion, when in truth it is not. So we have got to be realistic.

I cannot get you a good figure on broadband because we have not deployed the analytical tools that we need. I know we need to do more and I know we need to do better.

Senator PRYOR. Well, is getting to 100 percent, is that a reasonable goal?

Mr. COPPS. I do not know. It should be a goal. It should be our goal. I do not know if we can achieve it. You never get 100 percent on things. But I do not think that young kid in the tribal village or the Alaskan village or the countryside anywhere or the inner city is going to make it in the 21st century without high-speed broadband.

Some people talk about the E-rate program for schools and suggest it has done enough, so why are we still supporting it? I do not think we should have our kids in schools where there is dial-up Internet when everybody else in the world is working on broadband. We are just not going to make it that way. We are not going to make it.

Senator PRYOR. Let me change gears if I can. In the last few days, due to the work of the Chairman and Ranking Member here, the cable industry came out with a proposal about family tier. If we just ignore the specifics of their proposal, we do not have to get into the specifics of their proposal, but in your view is family tier the right approach? Is that the right approach that we should be looking at, or is there another approach that in your view is better?

Mr. COPPS. I think there are a number of approaches and options that have been suggested. If the industry is most interested in this particular option and willing to move ahead, I think we ought to give it a try. As Chairman Martin told the Committee last week, there are other options, like a la carte cable. Some questions have attended that about whether it is a viable business plan or not, but

it certainly brings consumer choice and consumer options, and I think we need to look at that.

These things may never really take off, and that's why I am not willing to say no legislation ever, because I think it might one day be called for. These things do not just happen easily and I think the industry, with Mr. Valenti up here the other day, has come a long ways. But we are not there yet. People want this settled. Jack is one of the most delightful people in the world and I am proud to call him a friend, but I think when he suggest that all of these polls universally say that people do not want the government to do anything, I do not think he has looked at all those polls. For example, a 2004 Kaiser poll reported that over 60 percent of the American people want the government to do something.

It depends how you ask the question. "Are you in favor of trampling the First Amendment?" What do you expect people to say? Of course not. But, "are you in favor of the government taking some reasonable steps to control this?" Everybody is going to say yes. You have got to be careful on those polls.

Senator PRYOR. Well, let me ask about the Commission just for a moment. I know that you have been very concerned with media ownership and consolidation of ownership. As I understand it, there was a challenge to what you did and it went maybe to the Third Circuit and was overturned. Is that right?

Mr. COPPS. That is correct.

Senator PRYOR. As I understand it, part of the reason it was overturned is—I have not read the decision, but the Third Circuit made the determination that there was not enough evidence to support what you were trying to do. One question I have for you: Is that a function of there really is not enough evidence out there or is it a function of the fact that you are limited in your ability to collect the evidence and collect the data that you need to do your job?

Mr. COPPS. It is a function of the previous Commission not being willing to go out and ask the questions that need to be asked on media ownership, such as is there a relationship between the indecency that we were talking about a minute ago and media consolidation. You can make an argument that there is because these big companies are so focused on selling products to 18 to 34-year-olds and maybe that dictates the kind of programming.

I do not think we have the answer to that, although we have some indication from a study done by Jon Rintels and Phil Napoli that indicate there is a connection. But I asked, I begged, for us to look at that, before we voted in 2003. We did not do that. Surely we cannot go to the courts with something like that diversity index that the previous Commission came up with, that could not differentiate between a network station and a weekly paper and a home shopping channel, and expect a court to say: Oh, yes, the FCC has really done their work here; congratulations.

We have got to get the evidence. It is not rocket science. It is out there. We can get it and do it and satisfy the courts.

Senator PRYOR. And you have the resources to collect the data?

Mr. COPPS. Well, that is an interesting question. It is a question of priorities, but I think we should be doing some studies and contracting out and making sure that we are making use of other in-

formation that is out there, peer-reviewed studies on media consolidation. Take a little time to do that. Then the other way to find out what is going on is what I tried to do and Commissioner Adelstein tried to do last time. That is to go out and talk to the American people. Do not stay in our offices down there in Southwest D.C. and just read the usual submissions from the usual people, but instead see what is happening in the local media markets. Boy, you do that and you are surprised, and you see what is happening to localism and diversity and competition in Arkansas and everywhere else.

Senator PRYOR. Thank you.

Mr. Chairman, that is all I have. Thank you.

The CHAIRMAN. Well, thank you both very much. We appreciate your candid answers to the questions.

Senator Inouye, do you have anything further?

Senator INOUE. No.

The CHAIRMAN. We are going to try and move these nominations out of the Committee as rapidly as possible. We congratulate you both on your nominations and hope to see if we can get you confirmed before we go home for Christmas. Thank you very much.

[Whereupon, at 11:37 a.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. WILLIAM H. FRIST, U.S. SENATOR FROM TENNESSEE

Mr. Chairman, I appreciate the opportunity to express to the Committee my support for the nomination of a fellow Tennessean, Deborah Taylor Tate, to serve as a member of the Federal Communications Commission (FCC).

Debi Tate is a native of Columbia, Tennessee and grew up in Murfreesboro, just outside of Nashville. She received both her undergraduate (B.A.) and law degrees from the University of Tennessee-Knoxville.

Ms. Tate has a long and distinguished career in public policy. She began her professional career as an attorney and senior policy advisor to then-Tennessee Governor Lamar Alexander, and later served as a policy advisor to Governor Don Sundquist. In 2002, Governor Sundquist appointed Ms. Tate to serve as a Director of the Tennessee Regulatory Authority (TRA), which regulates privately-owned telecommunications and utility companies in Tennessee. She served as Chairman of the TRA from 2003–2004.

As a TRA Director, Ms. Tate has been involved in telecommunications policy at both the state and federal levels. She was appointed by the FCC Chairman to the Federal-State Joint Board on Advanced Telecommunications Services, and she is an active member of both the Southeastern Association of Regulatory Utility Commissioners (SEARUC) and the National Association of Regulatory Utility Commissioners (NARUC).

On a personal level, my family and I have known Debi for years, as she lives near us in Nashville and is an elder at our church. She is active in the community in Nashville, serving on the boards of Vanderbilt Children's Hospital and Centerstone, Inc., the largest mental health provider in Tennessee, among others. She is also a founder of the Renewal House, a recovery residency for women with addictions and their children.

I am proud that President Bush has nominated such an accomplished Tennessean to serve on the Federal Communications Commission, and I know that Debi Tate will serve with dedication and distinction. I want to thank Chairman Stevens for scheduling a hearing on her nomination so expeditiously, and I look forward to seeing her confirmed by the Senate and starting work at the FCC.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
DEBORAH TAYLOR TATE

Question 1. What do you believe the goals of Universal Service should be?

Answer. The goals of Universal Service, as mandated by the Telecommunications Act of 1996 (1996 Act), are to promote the availability of quality services at just, reasonable, and affordable rates; increase access to advanced telecommunications services throughout the Nation; advance the availability of such services to all consumers, including those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas. If confirmed, I am committed to working with Congress to explore how best to promote these objectives.

Question 2. What do you believe the value of the Universal Service E-rate program for schools and libraries to be?

Answer. As a state Commissioner, I saw first hand the benefits of the E-rate program for classrooms throughout Tennessee and, if confirmed, would be committed to advancing the 1996 Act requirements that all schools, classrooms, rural health care providers and libraries should have access to advanced telecommunications services.

Question 3. Do you support the E-rate program for schools and libraries?

Answer. Yes. See answer to Question 2 above.

Question 4. Which providers do you believe should be required to contribute to the Universal Service Support Mechanism?

Answer. The 1996 Act requires all telecommunications carriers that provide interstate telecommunication services to contribute, on an equitable and nondiscriminatory basis, to the Universal Service Fund (USF). According to the 1996 Act, “[t]he Commission may exempt a carrier or class of carrier from this requirement if the carrier’s telecommunications activities are limited to such an extent that the level of such carrier’s contribution to the preservation and advancement of universal service would be de minimis.” And, “[a]ny other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.”

Question 5. What impact do you believe the Universal Service Support Mechanism, and the E-rate program specifically, has on universal broadband deployment?

Answer. I believe that the Federal Communications Commission (FCC or Commission) should do all it can to facilitate investment in broadband infrastructure throughout the Nation. A key principle for the preservation and advancement of universal service in Section 254 of the 1996 Act is that access to advanced telecommunications and information services should be provided in all regions of the Nation. In addition, Section 254 states that elementary and secondary schools and classrooms, health care providers and libraries should have access to advanced telecommunications services. If confirmed, I am committed to working with my FCC and state colleagues to explore how best to promote these objectives.

Question 6. Recently, through the efforts of Chairman Stevens and others, Congress passed a temporary exemption of the Anti-Deficiency Act (ADA) through December 31, 2006 for Universal Service programs. Do you believe the universal service telecommunications fees are “federal funds” and therefore subject to the Anti-Deficiency Act?

Answer. I understand that the question of whether USF monies are “federal funds” is a complex question dependent upon federal accounting laws and requirements, and other factors. I have not had the opportunity to study this issue in my capacity as a state official. If confirmed, I will carefully evaluate this issue. Certainly, to the extent that Congress specifies a legal status for these funds, I will adhere to the will of Congress.

Question 7. Express your position on permanently exempting Universal Service from the Anti-Deficiency Act.

Answer. I believe the determination surrounding exempting the USF from the Antideficiency Act is a congressional decision to make. If confirmed, I will adhere to the will of Congress.

Question 8. Discuss whether you agree that a robust Universal Service System and E-rate program are needed to speed broadband deployment consistent with the national broadband goals set-out by President Bush.

Answer. Yes. See answer to Question 5 above.

Question 9. What is your definition of indecency?

Answer. Title 18 of the United States Code, Section 1464, prohibits the utterance of “any obscene, indecent or profane language by means of radio communication.” The Commission has defined indecent speech as material that, in context, depicts or describes sexual or excretory activities or organs in terms patently offensive as measured by contemporary community standards for the broadcast medium. I would apply this definition, which calls for a contextual analysis, which carefully balances the government interests in regulating indecent speech with the important principles underlying the First Amendment to the United States Constitution.

Question 10. How would you propose to enforce it?

Answer. If confirmed, I will do everything in my power to encourage my FCC colleagues to investigate and resolve all complaints in a timely manner. Moreover, I applaud the Commission for its recent creation of Form 475(b), which, for the first time, allows consumers the opportunity to use a specific form to delineate complaints surrounding obscene, profane, and/or indecent programming.

Question 11. What are your views on local program insertion by satellite radio on terrestrial repeaters?

Answer. I have not had the opportunity to study this issue in my capacity as a state official. Local program insertion by satellite radio providers might offer public interest benefits, including increased competition in local radio markets. If confirmed, I am committed to working with my FCC and state colleagues to carefully evaluate this issue.

Question 12. If protection/insulation of children from questionable content is the rationale for indecency standards and the defining distinction is paid-for service

versus free over-the-air broadcasting, how do you reconcile the fact that the vast majority of children have equal access to both? (i.e. cable TV's penetration coupled with the fact that broadcast stations sit side-by-side with the likes of HBO—AND satellite radio can be purchased/used by underage listeners)

Answer. I have not had the opportunity to study this issue in my capacity as a state official. As a mother, I understand that children watching cable television do not distinguish between broadcast stations and cable networks as they channel surf. This is cause for concern since, as you note, the law restricting indecent material does not apply to cable television. Certainly, if Congress enacts a law restricting indecency on non-broadcast video programming, I will enforce that law.

Question 13. How do you define "in the public interest"? And would you agree that audience size can be a good indicator of service regardless of the content? If not audience, who?

Answer. It is my understanding that the Commission has broad discretion in determining whether a broadcaster has served the public interest, convenience and necessity. Practically speaking, it would seem that audience size may serve as one indicator that a broadcaster is providing programming of interest to its community. Although I have not had the opportunity to study this issue in my capacity as a state official, if confirmed, I am committed to working with Members of this Committee and my FCC colleagues to carefully evaluate this issue.

Question 14. What are your views regarding the consolidation of media?

Answer. I have not had the opportunity to study this issue in my capacity as a state official. Given the important role that the media plays in promoting the marketplace of ideas and enhancing our democratic society, if confirmed, I am committed to working with my FCC colleagues to ensure that our actions further competition, localism, and diversity in the media market.

Question 15. Which is the higher priority—increasing the number of outlets via LPFM or protecting the signal integrity of the stations that are already licensed and serving the public?

Answer. When evaluating priorities, the Commission should take into consideration how that action would impact the public. The Commission should take into account whether members of the public would lose access to an existing broadcast service, which may offer very localized communities and under-represented groups within communities the chance to be heard.

Question 16. What are your thoughts on multicast must carry?

Answer. I understand that the Commission has addressed this issue twice and found that cable operators are not required to carry more than a single digital programming stream from any particular broadcaster. Moreover, the Commission has pending before it a petition for reconsideration of its most recent decision addressing this issue. Although I have not had the opportunity to study this issue in my capacity as a state official, if confirmed, I will review this petition and the arguments made for and against multicast must carry carefully.